

REMARKS

Independent claims 1 and 16 have been amended to clarify Applicant's invention. Claims 12-15 have been canceled.

In ¶ 3 of the Office Action, claims 1, 4, 5, 7, 11, 12, 15, 16, 19-21, 23 and 24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bayne (US 2005/0060198). The Applicant traverses this ground of rejection for the following reasons.

The Bayne reference does not anticipate either of amended independent claim 1 or 16. Bayne discloses the option of admitting someone to a hospital, which can be done routinely without the need for scheduling. Bayne does not teach scheduling a particular emergency medical procedure at a particular treatment facility at a particular time under any circumstances.

Moreover, the triage processing mentioned by Bayne occurs at the call center when a patient or someone else calls in seeking medical treatment. The triage processing block determines "whether the reported medical condition is appropriate for treatment by [the] mobile care entity's clinicians". Life-threatening conditions are referred "to more appropriate ambulance, life-flight, or other critical care services." [See ¶ 0032.] The triage processing block includes personnel and/or equipment trained or programmed "to receive incoming calls". Bayne neither discloses nor suggest that patients can call into the call center and transmit an

electrocardiogram during a telephone call. In fact, such a scenario runs counter to the entire point of the Bayne invention, to wit, that a clinician is dispatched to the patient's home, acquires an electrocardiogram, and sends it to a central storage facility (i.e., medical record center 130) via a wireless interface that connects to the Internet. Bayne neither discloses nor suggests that the medical records sent by the clinician from the patient's house undergo triage processing. Accordingly, Bayne neither discloses nor suggests taking any remedial action in response to electrocardiogram data analysis results indicating an acute cardiac condition.

Furthermore, each of claims 1 and 16 in substance recites a computer programmed to perform the steps of: determining that the patient has a high probability of acute coronary syndrome based at least partly on an analysis of data in the electrocardiogram record; routing the electrocardiogram record and analysis results to an electronic device accessible to a cardiologist on call; and scheduling an emergency procedure at an emergency coronary treatment facility in response to a predetermined message from the cardiologist indicating that the patient should undergo an emergency procedure for treatment of acute coronary syndrome. None of these steps are disclosed in Bayne. Accordingly, Bayne does not disclose a computer programmed to perform such steps.

In view of the foregoing, the Applicant submits that Bayne does not anticipate either of independent claims 1 and 16

or any claim dependent thereon.

In ¶ 5 of the Office Action, claims 2, 3, 6, 8-10, 13, 14, 17, 18, 22, and 25-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bayne in view of Admitted Prior Art. The Applicant traverses this ground of rejection for the same reasons set forth above and for the following further reasons.

Vis-à-vis the rejections of claims 2 and 3, Bayne teaches automated scheduling of a clinician's visit to a patient's home. The mere existence of an emergency coronary treatment facility where PTCA is performed does not make it obvious to schedule such a procedure at such a facility in response to electrocardiogram data analysis results indicating an acute cardiac condition. As previously noted, Bayne does not even provide for the analysis of electrocardiogram data sent from the patient's home, but rather only mentions storing that such data at a central location.

Vis-à-vis claim 6, the Examiner's assertion that the pre-scheduled appointment block of Bayne "could be programmed to access the schedules of the treatment facilities" is irrelevant to an obviousness inquiry. The mere possibility of doing something does not establish a *prima facie* case for obviousness. The Applicant also disagrees with the assertion that "communication with local hospital admissions resources would provide access to schedules for the treatment facilities within the hospitals." This statement has no basis in fact and

Atty Docket No.: 31-CD-5530

is unsupported by citation to prior art. Moreover, the "treatment facilities" recited in claim 6 would obviously be located at different hospitals and thus would not be accessible from the admissions office of a single hospital.

Accordingly, the Applicant requests that the obviousness rejection also be withdrawn.

In view of the foregoing, the Applicant submits that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 1-11 and 16-27 are hereby requested.

Respectfully submitted,


Dennis M. Flaherty
Reg. No. 31,159
Ostrager Chong Flaherty &
Broitman P.C.
250 Park Avenue, Suite 825
New York, NY 10177-0899
Tel. No.: 212-681-0600

December 2, 2005

Date

CERTIFICATE OF MAILING

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

December 2, 2005

Date


Dennis M. Flaherty